POTENTIAL FY 20010-11 SPENDING PRESURES

Interest Payment Due September 30, 2011: Under current federal policy, Michigan will owe interest on approximately $3.7 billion of borrowing from the federal government to support the Unemployment Trust (UI) Trust Fund. The state portion of interest costs are estimated to be about $50 to $75 million. Apart from a change in federal policy, interest payments are due September 30, 2011.

Potential State Psych DSH Disallowance: The state psychiatric hospital disproportionate share hospital (DSH) payment, commonly referred to as the State Psych DSH, is a special Medicaid financing mechanism the State has used for many years to supplant GF/GP spending. The Federal government is now contesting our inclusion of this item in the DSH pool and may require repayment. The federal government has not ruled on the State Psych DSH, but the potential disallowance is estimated to be $220 million. If disallowed, repayment may be due this year, or over a multi-year period.

Potential Provider Use tax Disallowance:
In 2002, Michigan began establishing quality assurance assessment programs (QAAPs) as a means to provide Medicaid rate increases for hospitals, nursing homes, and managed care organizations and leverage additional federal Medicaid matching funds. Under the QAAP, a tax is imposed by the State on a broad class of health care providers and the revenues are appropriated in the Department of Community Health (DCH) budget to finance increases in the payment rates for Medicaid funded services. Michigan also retains a portion of the QAAP revenue to offset State General Fund/General Purpose (GF/GP) revenue that otherwise would be required to fund the Medicaid program.

The Federal Deficit Reduction Act required that by October 1, 2009, Michigan's HMO (medical services) and PIHP (mental health/substance abuse services) provider taxes (QAAP's) would be terminated because the Act changed the provider class definition to include Medicaid and non-Medicaid managed care organizations on this date.

The only way to continue a managed care provider tax under the Act would have been to tax Medicaid managed care organizations as well as all private/commercial HMOs and PPOs such as those operated by Blue Cross-Blue Shield. If the QAAP had not been eliminated, managed care entities that don't serve the Medicaid population would have experienced significant tax increases after October 1, 2009.

Public Act 440 of 2008 repealed the HMO and PIHP QAAP, which had been levied at a 5.5% rate, and replaced them with a 6.0% use tax on the same services as the QAAP. Additional GF/GP revenue generated through the use tax on these services has been available to DCH to finance Medicaid services.

There are questions within the health care community as to what actions the federal government may take in allowing states to continue drawing federal funds based on this taxing mechanism. The federal government likely sees the use tax as a way to get around the requirement of a broad-based tax and may defend their position with existing federal QAAP policy.

To date there has been no written communication to the Department of Community Health from the federal government regarding a Medicaid disallowance related to the use tax. However, DCH expects to receive a letter in January from CMS claiming that implementing a Use tax on Medicaid managed care organizations and using this as match for the Medicaid program may be in violation of the Quality Assurance Assessment Program (QAAP) broad-based tax rules of CMS.

Our Medicaid managed care Use tax revenue is estimated at $377.4 million for FY 2011 and approximately $392 million in FY 2012. The Use tax or manage care also yields approximately $700.0 million of federal dollars. It is premature to say how this would play out, but if CMS were entirely successful the state may be required to re-pay over a $1.0 billion in federal dollars. If disallowed, the amount and timing of re-payment would depend on when CMS might freeze our federal draws for the Medicaid program.

I am concerned that the current emphasis on federal deficit reduction may lead the federal government to be more even aggressive on these issues.